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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL DELGADO,

Plaintiff,

-v-

ANTHONY ANNUCCI, et al.,

Defendants.

ORDER

6:20-CV-6228 EAW

Pro se Plaintiff, Michael Delgado, an inmate incarcerated at the Attica Correctional Facility (“Attica”), filed this action seeking relief under 42 U.S.C. § 1983. (Dkt. 1). Plaintiff was granted permission to proceed *in forma pauperis* and the Complaint was evaluated pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(a). (Dkt. 4). Some claims were dismissed with leave to amend, while service was directed on one claim. *Id.* Before the Court is Plaintiff’s motion for appointment of counsel in which he states that he has been unable to retain counsel, and that only one of his claims was deemed sufficient to proceed to service because of his inexperience with filing a complaint. (Dkt. 5).

In deciding whether to appoint counsel, the Court should first determine whether the indigent’s position seems likely to be of substance, and if the claim meets this threshold requirement, the Court should then consider a number of other factors in making its determination. *Hodge v. Police Officers*, 802 F.2d 58, 61 (2d Cir. 1986). This action was only recently commenced. Defendants have not yet been served with the Plaintiff’s Complaint, and the only facts upon which this Court may base its decision as to whether this lawsuit is of substance are those portions of Plaintiff’s Complaint wherein he states the facts surrounding his claim. At this stage, the Court lacks sufficient information

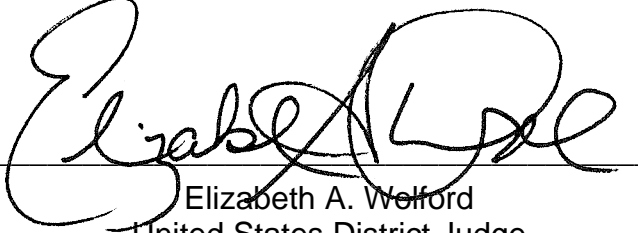
to consider the factors set forth in *Hodge*. Plaintiff's request for appointment of counsel is therefore denied without prejudice as premature.

ORDER

IT HEREBY IS ORDERED that Plaintiff's motion for the appointment of counsel (Dkt. 5) is denied; and

FURTHER, that Plaintiff's time to file an amended complaint as directed in the Court's February 1, 2021 Decision and Order (Dkt. 4) is extended to **thirty (30) days from the date of this Order;**

SO ORDERED.



Elizabeth A. Welford
United States District Judge

DATED: March 16, 2021
Rochester, NY